IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

Bail Appl..No. 6268 of 2007()

AGAINST THE ORDER DATED / / IN LP 36/2001 IN CC.292/2000 of J.M.F.C.-I,KANJIRAPPALLY

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PETITIONER/ACCUSED

MUHAMMED AJEEB, AGED 35 YEARS,
MADURA VEEDU, PERUNNA P.O., CHANGANACHERRY,
KOTTAYAM DIST.

BY ADV. SRI.V.K.PEERMOHAMED KHAN

RESPONDENTS: STATE

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No.6268 OF 2007

Dated this the 10th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces indictment in a prosecution under Sec.138 of the Negotiable Instruments Act. Cognizance was taken in the year 2000. The petitioner has not appeared before the learned Magistrate so far. The case against the petitioner has been transferred to the list of Long Pending Cases. Coercive processes have been issued to procure the presence of the petitioner. The petitioner finds a warrant of arrest issued by the learned Magistrate chasing him.

2. According to the learned counsel for the petitioner, the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. He is willing to surrender before the learned Magistrate and seek regular bail. The petitioner

apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned

Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-
(R. BASANT, JUDGE)

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//true copy//

P.S. to Judge